

## DOCKET FILE COPY ORIGINAL

FCC/MELLON

MAR 18 2004

READ INSTRUCTIONS CAREFULLY  
BEFORE PROCEEDINGFEDERAL COMMUNICATIONS COMMISSION  
REMITTANCE ADVICEApproved by OMB  
3060-0589  
Page 1 of 1

(1) LOCK BOX # 358145

## SECTION A - PAYER INFORMATION

(2) PAYER NAME (if paying by credit card enter name exactly as it appears on the card)

Mintz Levin Cohn Ferris Glovsky and Popeo, PC

(3) TOTAL AMOUNT PAID (U.S. Dollars and cents)

\$860.00

(4) STREET ADDRESS LINE NO. 1

701 Pennsylvania Avenue, NW

(5) STREET ADDRESS LINE NO. 2

Suite 900

(6) CITY

Washington

(7) STATE

DC

(8) ZIP CODE

20004

(9) DAYTIME TELEPHONE NUMBER (include area code)

(202) 585-3536

(10) COUNTRY CODE (if not in U.S.A.)

## FCC REGISTRATION NUMBER (FRN) REQUIRED

(11) PAYER (FRN)

IF MORE THAN ONE APPLICANT, USE CONTINUATION SHEETS (FORM 159-C)

COMPLETE SECTION BELOW FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(13) APPLICANT NAME

Corvis Corporation (Transferee)

(14) STREET ADDRESS LINE NO. 1

7015 Albert Einstein Drive

(15) STREET ADDRESS LINE NO. 2

P.O. Box 9400

(16) CITY

Columbia

(17) STATE

MD

(18) ZIP CODE

21046-9400

(19) DAYTIME TELEPHONE NUMBER (include area code)

(443) 259-4000

(20) COUNTRY CODE (if not in U.S.A.)

## FCC REGISTRATION NUMBER (FRN) REQUIRED

(21) APPLICANT (FRN)

0000548949

COMPLETE SECTION C FOR EACH SERVICE, IF MORE BOXES ARE NEEDED, USE CONTINUATION SHEET

(23A) CALL SIGN/OTHER ID

(24A) PAYMENT TYPE CODE

CUT

(25A) QUANTITY

1

(26A) FEE DUE FOR (PTC)

\$860.00

(27A) TOTAL FEE

\$860.00

(28A) FCC CODE 1

(29A) FCC CODE 2

(23B) CALL SIGN/OTHER ID

(24B) PAYMENT TYPE CODE

(25B) QUANTITY

(26B) FEE DUE FOR (PTC)

(27B) TOTAL FEE

(28B) FCC CODE 1

(29B) FCC CODE 2

## SECTION D - CERTIFICATION

## CERTIFICATION STATEMENT

I, Robert E. Stup, Jr., certify under penalty of perjury that the foregoing and supporting information is true and correct to the best of my knowledge, information and belief.

SIGNATURE

DATE 3/17/04

## SECTION E - CREDIT CARD PAYMENT INFORMATION

MASTERCARD \_\_\_\_\_ VISA \_\_\_\_\_ AMEX \_\_\_\_\_ DISCOVER \_\_\_\_\_

ACCOUNT NUMBER \_\_\_\_\_

EXPIRATION DATE \_\_\_\_\_

I hereby authorize the FCC to charge my credit card for the service(s)/authorization herein described.

SIGNATURE \_\_\_\_\_

DATE \_\_\_\_\_

SEE PUBLIC BURDEN ON REVERSE

FCC FORM 159

FEBRUARY 2003 (REVISED)

# SWIDLER BERLIN SHEREFF FRIEDMAN, LLP

THE WASHINGTON HARBOUR  
3000 K STREET, NW, SUITE 300  
WASHINGTON, DC 20007-5116  
TELEPHONE (202) 424-7500  
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THE CHRYSLER BUILDING  
405 LEXINGTON AVENUE  
NEW YORK, NY 10174  
(212) 973-0111 FAX (212) 891-9598

March 17, 2004

## **VIA OVERNIGHT DELIVERY**

Ms. Marlene H. Dortch, Secretary  
Federal Communications Commission  
P.O. Box 358145  
Pittsburgh, PA 15251-5145

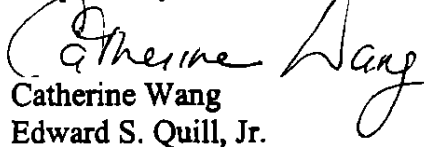
Re: Application of Focal Communications Corporation and Corvis Corporation

Dear Ms. Dortch:

On behalf of Focal Communications Corporation ("Focal") and Corvis Corporation ("Corvis", together "Applicants"), please find an original and six (6) copies of an application for Commission approval to transfer control of Focal and its operating subsidiaries. Concurrent with this application, the Applicants are also filing an application for Commission approval of the transfer of control with respect to Focal's international Section 214 authorizations.

Enclosed, please find a check in the amount of \$860.00 to cover the Commission's filing fee. Please date-stamp the enclosed extra copy of this filing and return it in the envelope provided. Please direct any questions regarding this filing to the undersigned.

Respectfully submitted,

  
Catherine Wang  
Edward S. Quill, Jr.

Counsel for Focal

Enclosure

**Before the  
FEDERAL COMMUNICATIONS COMMISSION  
Washington, D.C. 20554**

|  |   |                                    |
|--|---|------------------------------------|
| <b>In the Matter of</b>                            | ) |                                    |
|  | ) |                                    |
| <b>Focal Communications Corporation</b>            | ) |                                    |
| <b>Transferor,</b>                                 | ) |                                    |
|  | ) |                                    |
| <b>and,</b>  | ) | <b>File No. ITC-T/C-2004 _____</b> |
|  | ) |                                    |
| <b>Corvis Corporation,</b>                         | ) |                                    |
| <b>Transferee,</b>                                 | ) | <b>WC Docket No. 04-_____</b>      |
|  | ) |                                    |
| <b>Application Under Section 214</b>               | ) |                                    |
| <b>of the Communications Act of 1934,</b>          | ) |                                    |
| <b>as Amended, and Sections 63.04 and 63.24</b>    | ) |                                    |
| <b>of the Commission's Rules for Authorization</b> | ) |                                    |
| <b>to Transfer Control of Focal Communications</b> | ) |                                    |
| <b>Corporation and its Operating Subsidiaries.</b> | ) |                                    |

**JOINT APPLICATION**

Focal Communications Corporation ("Focal") and Corvis Corporation ("Corvis") (together "Applicants"), pursuant to Section 214 of the Communications Act of 1934, as amended and Sections 1.763, 63.03, 63.04, 63.18, and 63.24 of the Commission's Rules, 47 C.F.R. §§ 1.763, 63.03, 63.04, 63.18 & 63.24 (2002), hereby request authority to transfer indirect corporate control of Focal's operating subsidiaries, including Focal Telecommunications Corporation ("Focal Telecommunications"), from Focal to Corvis.

Pursuant to Section 63.04(b) of the Commission's Rules, 47 C.F.R. § 63.04(b), Applicants are filing a combined domestic and international Section 214 transfer of control application. In connection with the proposed transfer of indirect control of Focal Telecommunications, a Commission licensee that holds international Section 214 authority, Applicants provide below the information required by Sections 63.18 & 63.24(a) of the

Commission's Rules, 47 C.F.R. §§ 63.18 & 63.24(a). In addition, in place of an exhibit, the information required by Section 63.04(a)(6) through (a)(12) of the Commission's Rules, 47 C.F.R. § 63.04(a)(6)-(12), with respect to the transfer of control of Focal's domestic interstate operations which are conducted by virtue of blanket domestic authority under Section 214, is provided in Section V. below.<sup>1</sup>

Applicants respectfully request streamlined, expedited treatment of this Application pursuant to Sections 63.03 and 63.12 of the Commission's Rules, 47 C.F.R. §§ 63.03 & 63.12. This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) of the Commission's Rules, 47 C.F.R. § 63.03(b)(2)(i), because none of Focal, Corvis or their respective affiliates are dominant with respect to any service. As a result of the transaction, Corvis and its affiliates together will have market share in the interstate, interexchange market of substantially less than 10 percent, and will not be dominant with respect to any domestic service. This Application also qualifies for streamlined treatment under Section 63.12 because: (i) neither Corvis, Focal, Focal Financial nor Focal Telecommunications are affiliated with a dominant foreign carrier; (ii) as a result of the transaction, Corvis will not become affiliated with any foreign carrier; and (iii) none of the other scenarios outlined in Section 63.12(c) of the Commission's Rules, 47 C.F.R. § 63.12(c), apply.

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<sup>1</sup> Focal provides domestic interstate services on a non-dominant basis through the following operating subsidiaries: Focal Communications Corporation of California, Focal Communications Corporation of Connecticut, Focal Communications Corporation of Florida, Focal Communications Corporation of Georgia, Focal Communications Corporation of Illinois, Focal Communications Corporation of Massachusetts, Focal Communications Corporation of Michigan, Focal Communications Corporation of the Mid-Atlantic, Focal Communications Corporation of Minnesota, Focal Communications Corporation of New Jersey, Focal Communications Corporation of New York, Focal Communications Corporation of Ohio, Focal Communications Corporation of Pennsylvania, Focal Communications Corporation of Texas, Focal Communications Corporation of Virginia, and Focal Communications Corporation of Washington. All of Focal's operating companies are Delaware corporations (except for Focal Communications of Virginia which is a Virginia public service corporation) and all are wholly owned direct subsidiaries of Focal Financial Services, Inc., which is a wholly owned direct subsidiary of Focal.

## **I. The Applicants**

### **A. Focal Telecommunications Corporation**

Focal is a privately held, Delaware corporation with its principal place of business at 200 North LaSalle Street, Suite 1100, Chicago, Illinois. Focal is the holding company for a family of facilities-based national integrated communications provider serving enterprises, carriers and resellers with dedicated local sales and support, a robust national network, and innovative voice and data solutions tailored to meet customer needs. Focal's affiliates offers their customers a variety of regulated and unregulated services, including TI, PRI, switched local service, long distance, toll-free, international long distance, international toll-free, Internet access and private networking, collocation space, integrated voice and data circuits, audio conferencing, and calling card services.

Through its subsidiaries identified in footnote one, Focal is authorized to provide local and long distance services in approximately twenty (20) states and is also authorized by the FCC to provide domestic and international services nationwide as a non-dominant carrier. With respect to international services, a wholly owned indirect subsidiary of Focal, Focal Telecommunications Corporation ("Focal Telecommunications"), is authorized to provide resold and facilities-based international services pursuant to authority granted by the Commission in File No. ITC-97-341. Focal Telecommunications is a wholly owned subsidiary of Focal Financial Services, Inc. ("Focal Financial"), which is, in turn, a wholly owned direct subsidiary of Focal.

### **B. Corvis Corporation**

Corvis is a publicly traded Delaware corporation (NASDAQ: CORV) with its principal executive offices at 7015 Albert Einstein Drive, Columbia, Maryland. Corvis operates two

divisions within the telecommunications industry. Its communications services division, managed within its Broadwing Communications, LLC subsidiary ("Broadwing"), is a provider of data, voice and video solutions to carrier and enterprise customers delivered over a 18,700 route mile fiber optic network connecting 137 cities nationwide. Its communications equipment division designs, manufactures and sells high performance all-optical and electrical/optical communications systems that it believes can accelerate carrier revenue opportunities and lower the overall costs of network ownership for carriers. In recent years, the communications services division has become the major focus of Corvis; and revenues from the communications services division will account for a majority of Corvis' revenues for the foreseeable future.

Broadwing,<sup>2</sup> a Delaware limited liability company, is a wholly owned subsidiary of C III Communications, LLC, which is, in turn, a subsidiary of Corvis.<sup>3</sup> Corvis acquired Broadwing on June 13, 2003 through the purchase of the assets of Broadwing Communications Services, Inc., and its wholly owned subsidiary Broadwing Telecommunications, Inc. By public notice dated on April 10, 2003, the Commission granted the international Section 214 application filed by Broadwing,<sup>4</sup> and by public notice dated May 12, 2003, the Commission granted the domestic Section 214 application.

Corvis also wholly owns Corvis Acquisition Company, Inc., which will be merged with and into Focal upon the consummation of the proposed transaction. Corvis Acquisition was

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<sup>2</sup> Broadwing was originally named C III Communications Operations, LLC. The name was later changed to Broadwing Communications, LLC.

<sup>3</sup> Corvis owns a 97% economic interest in C III Communications, LLC, and maintains full board control. Cincinnati Bell, previously the parent company of the predecessor of Broadwing Communications, LLC, retained a 3% non-voting equity interest in C III Communications, LLC.

<sup>4</sup> On March 8, 2004, C III Communications Operations, LLC filed notice with the FCC that it had changed its name to Broadwing Communications, LLC (File No. ITC-214-20030313-00134).

created to effectuate the transaction described herein and does not hold any authority to provide telecommunications services.

## **II. Description of the Proposed Transfer of Control**

Pursuant to the Merger Agreement executed by the Parties on March 3, 2004, the parties have agreed to merge Corvis Acquisition with and into Focal.<sup>5</sup> Through the proposed transaction, Focal and Focal Telecommunications will become direct and indirect wholly owned subsidiaries of Corvis and the ultimate control of Focal Telecommunications will transfer to Corvis. Upon merger consummation, Focal Telecommunications and Broadwing will become affiliated sister companies. Thus, by this Joint Application, Applicants respectfully request Commission approval of the transfer of ultimate control of Focal Telecommunications.

Each of Focal's operating subsidiaries will continue to provide service to their respective existing customers without interruption. The proposed transaction will not cause an assignment of any domestic or international Section 214 authority. Customers will continue to receive bills under the Focal name and will continue to receive the same service quality they have come to expect from Focal. The proposed transaction will not result in any change in the terms, conditions and price of services to Focal Telecommunications' customers and thus will be transparent to consumers.

## **III. The Proposed Transaction Will Serve the Public Interest**

Consummation of the proposed transaction will serve the public interest. As a threshold matter, the proposed transaction will be seamless and transparent to customers. There will be no change in the name of any providing carrier, no change in the format or appearance of the customers' bills, no change in the terms, conditions and price of service, and no change in

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<sup>5</sup> Depending on Corvis' share price at the time of the closing of the merger, approximately 6% to 16% of Corvis' total outstanding common stock will be transferred to Focal's shareholders. That transfer of stock will not cause a transfer of control requiring Commission approval.

customer service. No service will be discontinued, impaired or terminated as a result of the proposed transaction. In addition, the proposed combination of the financial and managerial abilities of Corvis, with the existing operations of Focal and its subsidiaries, is expected to result in a business that is better positioned to continue to provide and expand services offerings to their customers throughout the United States.

The financial qualifications of Focal and its affiliates will be *greatly enhanced* by the proposed transaction. Corvis is a publicly traded company with a market capitalization of approximately \$1 billion and cash reserves of over \$500,000,000. Following the proposed transfer of control, Focal and its affiliates will be able to rely on its new ultimate parent company, Corvis, to support its financial ability to continue to provide service. Corvis is prepared to fund Focal as needed to continue Focal's operations. Accordingly, the proposed transaction will provide Focal and its affiliates with additional financial resources to support current operations as well as enabling Focal's affiliates to continue to further expand its services.

Focal, through its operating subsidiaries, has extensive experience providing telecommunications services and, with the consummation of the proposed transaction, Focal's management and employees will remain primarily the same. Focal's subsidiaries have been providing telecommunication services since May 1997 and currently offer a broad range of services in more than twenty top markets across the country. Given that the merger is not expected to change the qualifications of Focal or its subsidiaries in that regard, Applicants submit that Focal is, and will continue to be, well qualified to continue providing services in the United States. In addition to its existing expertise, through the proposed transaction, Focal will become a subsidiary of Corvis, which is already an owner of a operating telecommunications provider, Broadwing. In short, the proposed transaction involves the combination of two



companies, both of which have previously demonstrated their respective managerial qualifications. Accordingly, the proposed transfer of control will ensure that Focal's affiliates remain positioned to continue and improve upon their interstate and international service offerings.

The proposed transaction will have no negative impact on Focal's technical ability to continue to operate, maintain and expand its existing service offerings. Focal currently operates 24 Nortel DMS500 (Class 5) switches through its service territory. In addition, the Focal companies operate an extensive ATM backbone and an IP transit network. The Focal operating companies, currently provide a variety of regulated and unregulated services, including TI, PRI, switched local service, long distance, toll-free, international long distance, international toll-free, Internet access and private networking, collocation space, integrated voice and data circuits, audio conferencing and calling cards services in their respective markets. The majority of the technical personnel, including network engineers and field technicians employed by Focal's operating companies are expected to remain with the company. Accordingly, the proposed transfer of control will not diminish the technical abilities of Focal and its affiliates.

In addition, the proposed transfer of control will result in Focal's affiliates having access to the technical qualifications of Corvis and Broadwing. Corvis is a world leader in the design, manufacture and support of high-performance all optical and electrical/optical communications systems. Broadwing is the first carrier to complete an award-winning, nationwide, all-optical switched network, which spans over 18,500 lit route miles. Broadwing currently provides Long Distance, ATM, Frame Relay, Dial IP, Dedicated Internet, Private Line and sDSL throughout the country. Again, the combination of Corvis' and Focal's abilities, qualifications and expertise enhance Focal's affiliate's ability to continue to provide and expand its services.

In summary, Applicants expect that the combination of Corvis' resources with Focal's operations will greatly strengthen the resulting business. Focal's affiliates will be better positioned to continue to provide and expand service offerings to its customers. Focal will also gain access to the financial qualifications of Corvis and the managerial and technical expertise of Corvis and Broadwing, which will further benefit Focal's customers. The transfer to Corvis of the ownership and control of Focal will be seamless and transparent to customers with Focal's affiliates continuing to provide service under its current name in accordance with its currently effective tariff(s) and contracts.

#### **IV. Information Required by Section 63.18 of the Commission's Rules**

Pursuant to Section 63.18(e)(3), Applicants submit the following information in support of this Application:

**(a) Name, address and telephone number of each Applicant:**

**Transferor**

Focal Communications Corporation  
ATTN: Richard J. Metzger, Senior Vice President and General Counsel  
200 North LaSalle Street, Suite 1100  
Chicago, Illinois 60601  
Tel: (312) 895-8400  
Fax: (312) 895-8403  
FRN: 0003772365

**Transferee**

Corvis Corporation  
ATTN: Kim D. Larsen, Senior Vice President, Business Development,  
General Counsel and Secretary  
7015 Albert Einstein Drive  
P.O. Box 9400  
Columbia, MD 21046-9400  
Tel: (443) 259-4000  
Fax: (443) 259-4444  
FRN: 0010548949

**(b) Jurisdiction of Organizations:**

Focal and Focal Telecommunications are a corporations organized under the laws of the State of Delaware. Corvis is also organized under the laws of the State of Delaware.

**(c) Correspondence concerning this Application should be sent to:**

For Focal: mailto:

Catherine Wang, Esq.  
Edward S. Quill Jr., Esq.  
Swidler Berlin Shereff Friedman, LLP  
3000 K Street, NW, Suite 300  
Washington, DC 20007  
(202) 424-7500 - Telephone  
(202) 424-7643 – Facsimile  
[cwang@swidlaw.com](mailto:cwang@swidlaw.com) - Email  
[esquill@swidlaw.com](mailto:esquill@swidlaw.com) - Email

For Corvis:

Robert E. Stup, Jr., Esq.  
Michelle S. Cadin, Esq.  
Mintz, Levin, Cohn, Ferris, Glovsky and Popeo, PC  
701 Pennsylvania Ave., NW, Suite 900  
Washington, D.C. 20004  
(202) 585-3536 – Telephone  
(202) 434-7400 – Facsimile  
[restup@mintz.com](mailto:restup@mintz.com) - Email  
[mscadin@mintz.com](mailto:mscadin@mintz.com) - Email

(d) Focal Telecommunications holds an international Section 214 authorization to provide global facilities-based and global resale services (*See* File Number ITC-97-341).<sup>6/</sup> Corvis' subsidiary, Broadwing, holds global resold and facilities-based international Section 214 authorization (*See* File Number ITC-214-20030313-00134).

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<sup>6/</sup> See file number ITC-214 19970613-00329.

(e) By this Application, Applicants seek authority for a transaction that will result in the transfer of control of Focal, and therefore of Focal's operating subsidiaries, including Focal Telecommunications which holds international Section 214 authority, to Corvis.

(f) No response required.

(g) Not applicable.

(h) **Name, Address, Citizenship and Principal Business of Owners with 10% or Greater Direct or Indirect Ownership Interest:**

Following the close of the transaction, the following will hold a 10% or greater interest in **Focal Telecommunications Corporation:**

| <b>Name/Address/Citizenship</b>   | <b>Principal Business</b> | <b>Percent of Interest Held</b> |
|---|---------------------------|---------------------------------|
| Focal Financial Services, Inc.<br>200 North LaSalle Street, Suite 1100<br>Chicago, Illinois 60601<br>(Delaware Corporation) | Holding Co.               | 100%                            |

Following the close of the transaction, the following will hold a 10% or greater interest in **Focal Financial Services, Inc.:**

| <b>Name/Address/Citizenship</b>   | <b>Principal Business</b> | <b>Percent of Interest Held</b> |
|---|---------------------------|---------------------------------|
| Focal Communications Corporation<br>200 North LaSalle Street, Suite 1100<br>Chicago, Illinois 60601<br>(Delaware Corporation) | Holding Co.               | 100%                            |

Following the close of the transaction, the following will hold a 10% or greater interest in **Focal Communications Corporation:**

| <b>Name/Address/Citizenship</b> | <b>Principal Business</b> | <b>Percent of Interest Held</b> |
|---------------------------------|---------------------------|---------------------------------|
| Corvis Corporation              | Holding Co.               | 100%                            |

7015 Albert Einstein Drive  
P.O. Box 9400  
Columbia, MD 21046-9400  
(Delaware Corporation)

Following the close of the transaction, the following will hold a 10% or greater interest in

**Corvis Corporation:**

| <b>Name/Address/Citizenship</b>  | <b>Principal Business</b> | <b>Percent of Interest Held</b> |
|--|---------------------------|---------------------------------|
| David R. Huber<br>7015 Albert Einstein Drive<br>P.O. Box 9400<br>Columbia, MD 21046-9400<br>(US Citizen) | Individual                | 19-21%                          |

Other than the foregoing, following the transaction, no other person or entities will directly or indirectly own ten percent (10%) or more of the equity of Applicants. Applicants have no interlocking directors with foreign carriers.

(i) Applicants certify that they are not, and subsequent to the transaction will not be, affiliated with any foreign carrier within the meaning of Section 63.09(d) and (e).

(j) Applicants certify that they do not seek authority to provide service to any country described in paragraphs (1) through (4) of Section 63.18(j).

(k) Not applicable.

(l) Not applicable.

(m) Not applicable.

(n) Applicants certify that they have not agreed to accept special concessions directly or indirectly from any foreign carrier with respect to any U.S. international route where the foreign carrier possesses market power on the foreign end of the route and will not enter into such agreements in the future.

(o) Applicants certify pursuant to Sections 1.2001 through 1.2003 of the Commission's rules, 47 C.F.R. §§ 1.2001-1.2003, that no party to the Application is subject to a denial of Federal benefits pursuant to Section 5301 of the Anti-Drug Abuse Act of 1988.

(p) This international Section 214 Application qualifies for streamlined processing pursuant to Section 63.12 because Applicants are not affiliated with any foreign carriers; will not through the proposed transaction become affiliated with any foreign carriers; are not affiliated with any dominant U.S. carriers whose international switched or private line services Applicants seek to resell; and do not seek authority to provide switched base serviced over private lines to a country for which the Commission has not previously authorized the provisions of switched services over private lines. This Application should therefore be granted, according to Section 63.12(a), fourteen days after the date of the public notice listing the Application as accepted for filing.

**V. Additional Information Required by Section 63.04 of the Commission's Rules**

Pursuant to Section 63.04 of the Commission's Rules, 47 C.F.R. § 63.04, Applicants further request authority to transfer control from Focal to Corvis of Focal's affiliates who hold blanket domestic Section 214 authority. Applicants are filing a combined application to assign the authorizations pursuant to Section 63.04(b) of the Commission's Rules. 47 C.F.R. § 63.04(b). Applicants provide the following information in support of their request:

**63.04(b)(6): Description of the Transaction**

The proposed transaction is described above in Section II.

**63.04(b)(7): Description of Geographic Service Area and Services in Each Area**

Focal's affiliates offer their customers a variety of regulated and unregulated services, including TI, PRI, switched local service, long distance, toll-free, international long distance,

international toll-free, Internet access and private networking, collocation space, integrated voice and data circuits, audio conferencing, and calling card services. Focal, through the operating subsidiaries identified in footnote one, offers regulated services in the States of California, Connecticut, Delaware, Florida, Georgia, Illinois, Indiana, Maryland, Massachusetts, Michigan, Minnesota, New Jersey, New York, Ohio, Pennsylvania, Texas, Virginia, and Washington, and also provides service in Washington D.C.

**63.04(b)(8): Presumption of Non-Dominance and Qualification for Streamlining**

This Application is eligible for streamlined processing pursuant to Section 63.03(b)(2)(i) of the Commission's Rules because: (a) upon completion of the transaction, Corvis will continue to have less than ten percent market share in the interstate, interexchange market; (b) none of Corvis, Focal, Focal Financial, Focal Telecommunications or Focal's other affiliates is dominant with respect to any service; and (c) Applicants and their affiliates will provide local exchange service only in areas served by dominant local exchange carriers.

**63.04(b)(9): Other Pending Commission Applications Concerning the Proposed Transaction**

There are no other applications pending before the Commission concerning this proposed transaction.

**63.04(b)(10): Special Consideration**

None.

**63.04(b)(11): Waiver Requests (If Any)**

None.

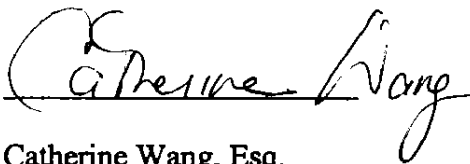
**63.04(b)(12): Public Interest Statement**

The proposed transaction is in the public interest for the reasons detailed in Section III above.

## VII. Conclusion

Based on the foregoing, Commission approval of the transfer of control set forth in this Application will serve the public interest convenience and necessity. Accordingly, Applicant respectfully requests that the Commission grant this Application as expeditiously as possible through its streamlined processing procedures.

Respectfully submitted this 17th day of March, 2004



Catherine Wang, Esq.  
Edward S. Quill Jr., Esq.  
SWIDLER BERLIN SHEREFF  
FRIEDMAN, LLP  
3000 K Street, NW Suite 300  
Washington, DC 20007  
(202) 424-7500 - Telephone  
(202) 424-7643 - Facsimile  
[cwang@SWIDLAW.com](mailto:cwang@SWIDLAW.com) - Email  
[esquill@swidlaw.com](mailto:esquill@swidlaw.com) - Email

Counsel for Focal



Robert E. Stup, Jr., Esq.  
Michelle S. Cadin, Esq.  
MINTZ, LEVIN, COHN, FERRIS,  
GLOVSKY AND POPEO, PC  
701 Pennsylvania Ave., NW, Suite 900  
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(202) 585-3536 - Telephone  
(202) 434-7400 - Facsimile  
[restup@mintz.com](mailto:restup@mintz.com) - Email  
[mscadin@mintz.com](mailto:mscadin@mintz.com) - Email

Counsel for Corvis



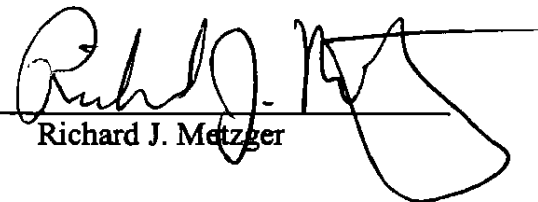
**AFFIDAVIT**

\_\_\_\_\_  
DISTRICT OF  
COLUMBIA  
\_\_\_\_\_

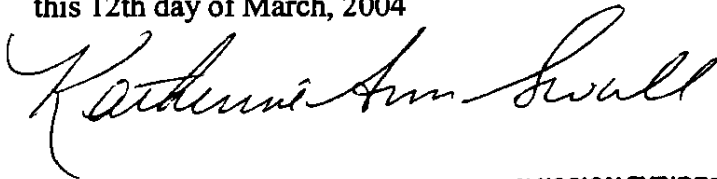
)  
)  
) ss  
)  
)  
)

I, Richard J. Metzger, declare under penalty of perjury that I am Senior Vice President, General Counsel of Focal Communications Corporation; that I have read the foregoing and any attachments and know the contents thereof; that the same are true to the best of my knowledge, except as to the matters that are therein stated on information or belief, and as to those matters I believe them to be true.

By: \_\_\_\_\_

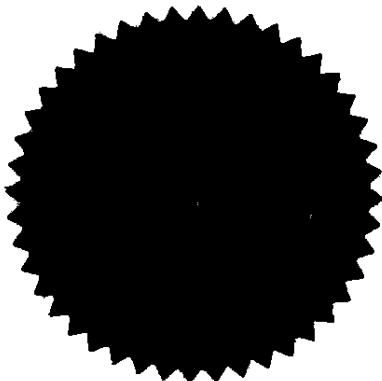
  
Richard J. Metzger

Subscribed and sworn to before me  
this 12th day of March, 2004



Katherine Ann Swall  
Notary Public in and for  
The District of Columbia

MY COMMISSION EXPIRES  
OCTOBER 31, 2007

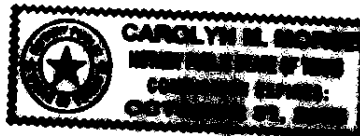


**AFFIDAVIT**

STATE OF )

COUNTY OF )

) ss



I, Kim D. Larsen, declare under penalty of perjury that I am Senior Vice President, Business Development, General Counsel, and Secretary of Corvis Corporation and Vice President and Secretary of Corvis Acquisition Company, Inc.; that I have read the foregoing and any attachments and know the contents thereof; that the same are true to the best of my knowledge, except as to the matters that are therein stated on information or belief, and as to those matters I believe them to be true.

By: *Kim D. Larsen*

Kim D. Larsen

*Carolyn M Morse*  
Notary Public

Subscribed and sworn to before me  
this 10th day of March, 2004